

REMARKS

The above-identified application has been reviewed in light of the Office Action mailed August 8, 2006. By the present amendment, the applicant has amended claim 15, has canceled claims 23-25, and has added new claims 27-29. It is respectfully submitted that the claims pending in the application do not introduce new subject matter, are fully supported by the specification, and are patentable over the cited prior art. Prompt and favorable consideration of these claims is earnestly sought.

The Office Action rejected claims 15-20 under 35 U.S.C. § 102 (b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103 (a) as obvious over U.S. Patent No. 3,417,745 to Sheldon (the '745 patent). The Office Action characterized the '745 patent as disclosing a shaft, an inflatable bladder which has an eccentric shape upon inflation, and a cannula. The Office Action asserted that the inflatable bladder has the shape of a wedge since it tapers in the proximal direction and is inherently capable of separating adjacent layers of tissue since it is made from Mylar and inflated with a substantially non-compressible fluid.

As presently amended, claim 15 recites an apparatus including, *inter alia*, a shaft, an inflatable bladder, and "a plurality of filaments disposed within an interior of the inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member."

The '745 patent discloses an endoscope having an inflatable bladder disposed at a distal end thereof. According to the '745 patent, the inflatable member is formed from an elastic material. The '745 fails to disclose or suggest an apparatus including, *inter alia*, an inflatable bladder and "a plurality of filaments disposed within an interior of the inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member" as

recited in amended claim 15.

Therefore, the '745 does not anticipate or suggest an apparatus including, *inter alia*, a shaft, an inflatable bladder, and "a plurality of filaments disposed within an interior of the inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member" as recited in amended claim 15. It is respectfully submitted that amended claim 15 is not anticipated or suggested by the '745 patent and the rejection of the Office Action has been overcome. Claims 16-20 depend directly or indirectly from amended independent claim 15 and it is respectfully submitted that these claims are also allowable over the '745 patent.

In the Office Action, claims 15-20 were rejected under 35 U.S.C. § 102 (b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 (a) as obvious over U.S. Patent No. 3,875,595 to Froning (the '595 patent). The Office Action asserted that the '595 patent discloses a shaft, an inflatable bladder that has an eccentric shape upon inflation, and a cannula.

As presently amended, claim 15 recites an apparatus including, *inter alia*, a shaft, an inflatable bladder, and "a plurality of filaments disposed within an interior of the inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member."

The '595 patent discloses an intervertebral prosthesis and a tube. The prosthesis is disposed on a distal end of a shaft and positioned between adjacent vertebrae as a replacement for a damaged disc. The '595 patent fails to disclose or suggest "a plurality of filaments disposed within an interior of the inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member" as recited in amended claim 15.

Therefore, the '595 does not anticipate or suggest an apparatus including, *inter alia*, a shaft, an inflatable bladder, and "a plurality of filaments disposed within an interior of the

Appl. No. 10/729,768
Amdt. dated November 6, 2006
Reply to Office Action mailed August 8, 2006


inflatable bladder, the plurality of filaments defining at least in part the shape of the inflated inflatable member" as recited in amended claim 15. It is respectfully submitted that amended claim 15 is not anticipated or suggested by the '595 patent and the rejection of the Office Action has been overcome. Claims 16-20 depend directly or indirectly from amended independent claim 15 and it is respectfully submitted that these claims are also allowable over the '595 patent.

The applicant has added new claims 27-29. New claims 27-29 depend from amended independent claim 15. As discussed hereinabove, amended claim 15 is not anticipated or suggested by either the '745 patent or the '595 patent. Therefore, it is respectfully submitted that new claims 27-29 are also in condition for allowance.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 15-20 and 27-29, are in condition for allowance. If the Examiner should have any questions concerning this amendment or feels that an interview would be helpful, the Examiner is requested to call the applicants' undersigned attorney at (631) 501-5713.

Respectfully submitted,

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747
Tel.: (631) 501-5713
Fax: (631) 501-3526


Dana A. Brussel
Reg. No. 45,717
Attorney for Applicant

Send correspondence to:
Chief Patent Counsel
Tyco Healthcare Group
195 McDermott Road
North Haven, Connecticut 06473